

LABOUR AND EMPLOYMENT DEPARTMENT

The 5th February, 1993

No. 11(92)92-4Lab.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Sole Arbitrator and Joint Labour Commissioner, Haryana, in respect of the dispute between the workmen and the management of M/s Bhiwani Textile Mills, Bhiwani.

BEFORE SHRI RAM SARUP, JOINT LABOUR COMMISSIONER, HARYANA AND SOLE ARBITRATOR IN THE MATTER OF ARBITRATION REFERENCE BETWEEN THE WORKMEN AND THE MANAGEMENT OF M/S BHIWANI TEXTILE MILLS, BHIWANI

AWARD

The management of M/s Bhiwani Textile Mills, Bhiwani declared lock-out in their Spinning Department with effect from 17th February, 1992 and in the Weaving Department with effect from 19th May, 1992 which continued up to 6th October, 1992 on which date the workmen through several registered trade unions reached a settlement with the management putting an end to the long period of lock-out. In the settlement effected under section 12(3) of the Industrial Disputes Act, 1947 the parties compromised almost on all the points of industrial dispute. However, the issue of wages/relief for the period of lock-out was entrusted to me by way of arbitration agreement between the parties. In pursuance of the provisions of sub-section (3) of section 10-A of the Industrial Disputes Act, 1947 Government,—*vide* their notification dated 15th October, 1992 published the arbitration agreement between the parties and the following issue was entrusted to me for arbitration :—

Whether the workers of BTM are entitled to any relief for the period of lock-out in Spinning Mill with effect from 17th February, 1992 and Weaving Department with effect from 19th May, 1992 till the settlement dated 6th October, 1992? If so with what details?

A perusal of the said notification reveal that no time limit has been prescribed for deciding the issue. However, as my term of re-employment for a specific period would come to an end on 31st December, 1992 so I decided to dispose of the matter pending before me.

After the publication of the notification cited above I addressed a registered letter, dated 2nd November, 1992 to the management of M/s Bhiwani Textile Mills, Bhiwani and five registered trade unions, namely (1) Textile Mazdoor Sangh, Labour Colony, Bhiwani (2) Vaster Udyog Mazdoor Sangh (BMS), Bawali Textile Workers Association, Bhiwani, (3) Textile Mazdoor Sangh (INTUC), Bhiwani and Bhiwani Mazdoor Sangh (HVP) Bhiwani requesting them to file their written replies, relating to the issue referred to me also for deciding the same,—*vide* said notices I granted 15 days time for filing their written reply, if any and further stated that in case no reply is received then it would be presumed that they have nothing to say. In the stipulated period none of the unions, for the reasons known to them preferred to file their written reply incorporating their contentions on the issue whereas the management of M/s Bhiwani Textile Mills, Bhiwani filed their written reply,—*vide* their letter, dated 20th November, 1992. Keeping in view the principles of natural justice I requested the concerned parties to appear before me on 14th December, 1992 at Chandigarh affording them another opportunity to say anything relating to the issue entrusted to me. On the fixed date i.e. 14th December, 1992 the office bearers of various trade unions did attend my office and on the same day only two of them namely Textile Mazdoor Sangh (INTUC), Lohar Bazar, Bhiwani and Vaster Udog Mazdoor Sangh (BMS) also filed their written replies. After having read the replies so received I proceeded to hear them on the point whereas the office bearers of one union only i.e. Textile Mazdoor Sangh confined his verbal arguments to all that they stated in their written reply and nothing beyond the written reply.

On meticulous scrutiny of the written replies received from two unions I am of the impression that the office bearers of these two unions even distantly did not touch/discuss the point of issue for arbitration. Instead, they were pleased to cite history of M/s BTM *viz-a-viz* its birth 28 years before, sincerity and honesty with which the workmen have been working and the number of persons employed etc. The frequent charge of senior officers in the company and emergence of workload/wages issue somewhere in 1986-87 and in absence of a formal settlement taking recourse by the workmen to work to rule and resorted to the old norms of workload. The unions have also admitted that the workmen agreed to give the increased workload on the basis of the recommendations made by an expert team of Ahmedabad Textile Industries Research Association. Precisely the unions only alleged managerial inefficiency and lock-out period as illegal and unjustified consequence of which they requested the Arbitrator to give some monetary relief to the workmen for the period of lock-out. The contents of the written statement of both the unions which are almost identical. Hence it would be in-expedient to make mention of them over and again. However, on 14th December, 1992, I

again requested the parties to meet at Bhiwani on 26th December, 1992 giving them a final opportunity to say anything in support of their written contention and I had a meeting with the concerned parties on the said date. On that day the office bearers of registered trade unions were present and Shri Sugan Ram Gupta of Textile Mazdoor Sangh (INTUC) cited the case law in 1976-1LLJ/274SC, 1976-1LLJ/86 SC, 1980-1LLJ/173 SC and 1970 LIC/907 whereafter he did elaborate any point touching the issue before me. I had privilege to go through the citation, and it would not be necessary to make mention of them as they are squarely distinguishable and not even distantly related to the issue before me.

The management in their written reply and also verbal contentions before me disclosed that from the month of January, 1990 onwards, the mill was infested with serious acts of go-slow, manhandling, murderous assault upon co-workmen, supervisors and even the managerial staff. They also submitted the list containing the details of the events which took place in and around the factory. In January, 1990, Senior Vice-President and Vice-President of the Mill were grievously hurt resulting into their hospitalisation. The situation in respect of work continuously deteriorated and quality of the product also recorded worsening trend. Frequent appeals and notices by the management failed to have any desired effect. The final nail in the coffin of the plant was put in by the workmen in the beginning of 2nd week of February, when the machinery of the plant were deliberately damaged. The 2nd week of February, 1992 was a week of Chaas, lawlessness and indiscipline. When no appeal and req test worked and the management left with no alternative but to declare the lock-out effective 17th February, 1992. The locking out of the Spinning Mill/department in spite of recording any improvement showed further deterioration in the total atmosphere as the workmen who were out of the plant reverted to acts of indiscipline in and around the factory as a result of which few of the active workmen were placed under suspension. During the months of March and April the atmosphere continued to extremely polluted and unfortunately on 18th May, 1992 one Shri G. M. Joshi, General Manager (Fabrics) of the Weaving Department was beaten by few of mischievous and active workmen leaders. Under the circumstances the management also declared lock-out in their Weaving Department with effect from 19th May, 1992.

The short contentions and also verbal arguments led to believe that the decision of the management for declaring lock-out was just and timely perhaps it was in the interest of workmen too as the infighting amongst the various unions was activated attributable to happenings in first week of February, 1992. The beating of Shri G. M. Joshi, General Manager (Fabrics) added fuel to fire and running of the Weaving Department evidently would not done in public interest. Above all, the Joint Labour Commissioner had the opportunity to disseminate and deal with industrial dispute of the aforesaid mill and there were many occasions/ chances to defuse the abnormal situation but nothing worked. *Inter se* contact with the office bearers of various trade unions and rank and file of the workmen added to my knowledge about the dispute. In brief, on the basis of the contentions and arguments of the parties before me I am of the opinion that the lock-out from 17th February, 1992 in Spinning Mill and from 19th May, 1992 in Weaving Department till the settlement dated 6th October, 1992 was declared under the most compelling circumstance and it was beyond the control of the management to run the mill smoothly. Consequence of which the workmen are not entitled to any relief/wage for the period of lock-out period. I award accordingly.

RAM SARUP,

Sole Arbitrator and
Joint Labour Commissioner,
Haryana.

KIRAN AGGARWAL,

Financial Commissioner and Secretary to Government,
Haryana, Labour and Employment Department.

हरियाणा सरकार

श्रम विभाग

दिनांक 18 जनवरी, 1993

मं. 11(5-4)90-4थम.—इस अधिसूचना द्वारा हरियाणा के राज्यपाल स्टेट पब्लिक एण्ड इम्पलीमेन्टेशन एमेंटी का गठन करते हैं जिसके निम्नलिखित सदस्य होंगे :—

स्वतंत्र प्रतिनिधि

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| 1. राज्य मन्त्री, श्रम तथा रोजगार | • • | अध्यक्ष |
| 2. वित्ताध्यक्ष एवं मन्त्रिव, हरियाणा सरकार, श्रम तथा रोजगार विभाग | • • | मदस्य |
| 3. श्रम आयुक्त, हरियाणा | • • | सदस्य सचिव |

प्रबन्धकों के प्रतिनिधि :

1. श्री एम० एम० अग्रवाल, मीनिवर वाईस प्रेजीडेंट,
मै० बी० टी० एम०, भिवानी गदस्य

2. श्री पुरुषोत्तम शर्मा, पालीवाल नगर,
जी० टी० रोड, पानीपत गदस्य

3. श्री नरेन्द्र बत्रा पैजीडेंट, मुपर फलेम
सूर पार्ट्स लिमिटेड, 14/1, मथुरा
रोड फरीदाबाद सदस्य

4. श्री पीयुस जैन, एम० डी०,
मोहन स्पिनिंग मिल-रोहतक सदस्य

5. श्री के० सी० लखानी,
मै० लखानी चप्पल-फरीदाबाद सदस्य

श्रमिकों के प्रतिनिधि

1. श्री राजेन्द्र शर्मा, इंटक लीडर.
नीलम चौक, फरीदाबाद सदस्य

2. श्री कैप्टन रिसाल सिंह सुपुत्र श्री प्रताप सिंह,
झहरी मोहल्ला, रोहतक सदस्य

3. श्री साहब सिंह, सरपंच,
गांव रिढाऊ, डा० फरमाणा सोनीपत सदस्य

4. कृष्णराम नीलम सिंह, मार्कित श्रीमति रामूर्ति र.ठीर
मोहल्ला राजवृत्ताना सोहना, गुडगांव सदस्य

5. श्री ईश्वर सिंह, प्रेजीडेंट
ए० सी० सी० सीमेंट फैक्टरी यूनियन,
चरखी दादरी सदस्य

2. कमेटी का उद्देश्य पंचाट तथा समझोते आदि को परिषालन के न कराने के केसों वारे सभी सञ्चान्ति के ध्यान में लाना है तथा ऐसे वैद्य और सामान्य उपायों को ढूढ़ निकालना है जिससे के नियोक्ताओं द्वारा इसकी परिषालना करवाई जा सके तथा नियोक्ताओं/श्रमिकों द्वारा कोई आप डिस्प्लिन को उचित परिषालन। तथा मान्यता करवाना है।

3. कमेटी का मुख्यालय चण्डीगढ़ में होगा परन्तु कमेटी की बैठक हरियाणा राज्य के दूसरे स्थानों पर की के ज सकेंगी।

4. कमेटी के गैर-सरकारी सदस्य हरियाणा सरकार के परिवर्त सं० 704-पोल (4)72/98555, दिनांक ४ अप्रैल 1972 द्वारा जारी किए गए ग्रन्ट-देशो (समय समय पर मंशोधित) के अनुसार यात्रा भत्ता तथा दैनिक भत्ता के हक्कदा होंगे, गैर-सरकारी सदस्य जब यात्रा करेंगे तो उन पर दूसरी शर्तें जैसा कि सरकारी कमंचारियों के लिए टी. ए. रुज में लिखी है, लागू होंगी।

5. उपरोक्त कमेटी में गैर-सरकारी सदस्यों के यात्रा व दैनिक भत्ता वित्त विभाग द्वारा स्वीकृत से बजट लेखा हैड (287)-अम तथा रोजगार-ए-थ्रम (नान-प्लान) के अन्तर्गत वहन किया जाएगा। संयुक्त अम आयुक्त, हरियाणा कमेटी के गैर, सरकारी सदस्यों के यात्रा भत्ता वित्तों के कन्ट्रोलिंग अधिकारी होंगे।

6. श्रमिकों/नियोक्ताओं के प्रतिनिधियों को यह अधिकार प्रप्त होगा कि वह अपने साथ अधिक से अधिक दो मलाहकार प्रत्येक केम में साथ रख सकते हैं, परन्तु इन मलाहकारों को यात्रा भत्ता तथा दैनिक भत्ता का अधिकार नहीं होगा।

7. कमेटी की अवधि इस सूचना के राजपत्र में प्रकाशन की तिथि से दो वर्ष की होगी। कमेटी की बैठक प्रध्यक्ष जब चाहें, आवश्यकता अनुसार बुला सकेंगे।

किरण अग्रवाल,
कृते : आयुक्त एवं सचिव, हरियाणा सरकार,
अम तथा रोजगार विभाग।